



Hearings Official

Phone: 541-682-5377
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AGENDA

Meeting Location:
Sloat Room, Atrium Building
99 West 10th Avenue

The Eugene Hearings Official welcomes your interest in these agenda items. Feel free to come and go as you please at any of the meetings. This meeting location is wheelchair-accessible. For the hearing impaired, FM assistive-listening devices are available or an interpreter can be provided with 48 hours' notice. To arrange for these services, contact the Planning Division at (541) 682-5481.

WEDNESDAY, APRIL 13, 2016
(5:00 p.m.)

I. PUBLIC HEARING

BRIDGE WAY PUD(PDT 14-2/SDR 15-1)

Assessors Map: 17-03-08-23 **Tax Lot:** 1802

Location: 3848 Gilham

Request: Create 17 lots

Applicant: Mark Adkins Legacy Homes Inc.

Representative: Don Mogstad, Poage Engineering

Lead City Staff: Rob Lilley, Associate Planner
Telephone: (541) 682-8404
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Public Hearing Format:

1. Staff introduction/presentation.
2. Public testimony from applicant and others in support of application.
3. Comments or questions from neutral parties.
4. Testimony from opponents.
5. Staff response to testimony.
6. Questions from Hearings Official.
7. Rebuttal testimony from applicant.
8. Closing of public hearing.

The Hearings Official will not make a decision at this hearing. The Eugene Code requires that a written decision must be made within 15 days of close of the public comment period. To be notified of the Hearings Official's decision, fill out a request form at the public hearing or contact the lead City staff as noted above. The decision will also be posted at www.eugene-or.us/hearingsofficial.



TENTATIVE PLANNED UNIT DEVELOPMENT AND STANDARDS REVIEW STAFF REPORT

Application File Name (Number):

Bridge Way PUD (PDT 14-2; SDR 15-1)

Applicant's Request:

Tentative Planned Unit Development and Standards Review approvals for the creation of 17 buildable single-family lots.

Applicant

Mark Adkins

Subject Property/Location:

Tax Lot 1802 of Assessor's Map 17-03-08-23; Located west of Gilham Road and to the south of Creekside Drive.

Relevant Dates:

PUD application submitted on February 28, 2014; application forced complete on August 26, 2014; 45 day timeline extension requested on September 11, 2014; 30 day timeline extensions requested on October 13, 2014 and November 17, 2014; waiver of the State 120-day rule requested and granted on December 16, 2014; Standards Review application submitted on January 8, 2015; supplemental materials for PUD and Standards Review applications submitted on January 19, 2016; public hearing scheduled for April 13, 2016.

Applicant's Representative /Civil Engineer:

Don Mogstad, Poage Engineering & Surveying, Inc. (541) 485-4505

Applicant's Architect:

James Whaley (541) 302-6485

Applicant's Surveyor:

Tom Poage, Poage Engineering & Surveying, Inc. (541) 485-4505

Lead City Staff:

Rob Lilley, Associate Planner, Eugene Planning Division (541) 682-8404

Description of Planned Unit Development and Standards Review Requests

The applicant requests Tentative Planned Unit Development (PUD) and Standards Review approvals

for 17 buildable residential lots. The applicant proposes to develop single-family homes consistent with the R-1 Low-Density residential zone. The proposed density will be a total of 17 units on 3.49 gross acres, which equals a calculated density of 4.9 units per gross acre.

Site Context

The subject property is located north of Beltline highway and west of Gilham Road, and is zoned R-1/WR/PD Low-Density Residential with Water Resources and Planned Unit Development overlay zones. Attachment A of this report shows the vicinity of the subject property based on a 2013 aerial photo.

The area shown in red in this map is part of the City's acknowledged Goal 5 riparian inventory. One single family residence with the address of 3848 Gilham Road presently exists on the subject property. An accessory building exists in the northeastern portion of the site and is proposed for removal. Gilham Creek, a seasonal stream included in the City's acknowledged Goal 5 inventory, flows from south to north across the western portion of the site.

This proposal is an infill development within an area of single-family residences zoned either R-1 or AG (Agriculture). All adjacent properties are zoned either R-1 or AG and with one exception are within the Eugene City limits. All adjacent properties are developed or in the process of being developed with single family residences.

Directly north and abutting the subject property are four single family homes built along Sterling Woods Drive and Creekside Way, and one vacant lot. All of these parcels are zoned R-1/WR/PD. Sterling Woods Drive terminates at the northern boundary of the subject property. Abutting and to the east is one single family home zoned AG, outside the Eugene city limits. Gilham Road also abuts the subject property to the east and is under the jurisdiction of Lane County. Across Gilham Road are parcels zoned AG and developed with single family residences. To the south is a 17 lot Planned Unit Development zoned R-1/WR/PD with homes currently under construction. Two streets (Sterling Woods Drive and Nicole Way) in this development terminate at the southern boundary of the subject property. Abutting and to the west are two single family homes built along Meadow View Drive, which are both zoned R-1/SR.

Public Notice/Referrals

Public notice was mailed and posted on March 11, 2016, consistent with the requirements of EC 9.7315 Public Hearing Notice. The Planning Division received public testimony from two people as summarized below.

Rich Olson: wants Gilham Road improved from its intersection at Ayers Road north to its end due to its deteriorating condition.

John Stadter: neighboring property owner that is opposed to this (or any other) development taking access from Gilham Road until sidewalks are constructed from Ayers Road north.

Both of these comments are addressed under EC 9.6505(3): Improvements-Specifications, Streets and Alleys. Gilham Road north of its intersection with Ayers Road is outside the Eugene City limits, under the jurisdiction of Lane County and is not improved to City standards. In the vicinity of the

proposed development it has a paving width of 21 feet and does not have curbs, gutters or sidewalks.

No other testimony has been received as of the publication of this staff report. Any testimony received following the completion of this staff report and prior to the public hearing will be presented to the Hearings Official at the hearing.

The Planning Division also provided information concerning the application to other appropriate City and County departments, public agencies, service providers, and the affected neighborhood group. All referral comments received by the Planning Division on this application are included in the application file for reference, and addressed in the context of applicable tentative PUD and Standards Review approval criteria in the following evaluation.

Staff Evaluation

The general application requirements are established at Eugene Code (EC) 9.7000 through EC 9.7030. The Type III procedures apply to the concurrent applications for tentative PUD and Standards Review, which are provided at EC 9.7300 through EC 9.7340. Application requirements specific to the tentative PUD are listed at EC 9.8310. The Standards Review application is subject to the requirements of EC 9.8460 through 9.8472. These two applications are being reviewed concurrently under the provisions of EC 9.7305 as one cannot be approved without the other.

As this tentative PUD application was submitted on February 28, 2014 Eugene Code sections in effect on that day are used in reviewing the application and are cited in this report. Eugene Ordinance 20521 affected a number of stormwater management elements in the Eugene Code and was effective the following day, so its provisions do not apply to this application.

As part of the PUD proposal, the applicant is requesting a Standards Review Evaluation to allow development activity to take place within the Goal 5 (/WR overlay) portion of the subject property. EC 9.4930(3) identifies the uses that are permitted within the /WR conservation areas subject to Standards Review. The Standards Review provisions begin at EC 9.8460.

Tentative Planned Unit Development

The applicant and his representatives have had numerous meetings and communications with staff concerning the proposed PUD over the past two years. These ongoing contacts act to meet the requirement of EC 9.7005 Pre-application Conference. The applicant held a neighborhood meeting on December 17, 2013 in compliance with EC 9.7007 Neighborhood/Applicant Meetings. With regard to EC 9.8310 Tentative Planned Unit Development General Application Requirements the applicant indicates that the proposed PUD includes all property under contiguous ownership.

As required by the Type III land use application procedures beginning at EC 9.7300, the Hearings Official must review any PUD application and consider pertinent evidence and testimony as to whether the proposed use is consistent with the criteria required for approval (shown below in **bold** typeface). Based on the evidence available as of the date of this staff report, the following findings and recommendations are presented.

The Hearings Official shall approve, approve with conditions, or deny a tentative PUD application with findings and conclusions. Decisions approving an application, or approving with conditions shall be based on compliance with the following criteria at EC 9.8320:

EC 9.8320(1): The PUD is consistent with applicable adopted policies of the Metro Plan.

The applicant notes in their Tentative PUD Criteria Conformance Statement dated February 18, 2015 ("PUD Statement") that the subject property is designated Low Density Residential on the Metro Plan, which establishes an allowed density "through 10 units per gross acre." The applicant's proposal for 17 single-family homes on 3.49 gross acres would result in a density of 4.9 units per acre, which is within the allowable limits.

The applicant's PUD Statement also cites Policy 11 in the Metro Plan Residential Land Use and Housing element, which encourages the consolidation of relatively small vacant parcels, and states the existing development pattern in the vicinity does not allow for parcel consolidation.

Based on the proposal meeting the applicable Metro Plan density requirement and staff's review of Metro Plan policies, staff views the proposed PUD as consistent with this standard.

EC 9.8320(2): The PUD is consistent with applicable adopted refinement plan policies.

The applicant states that the proposal falls within the boundaries of the Willakenzie Area Plan ("WAP") and is consistent with its applicable plan policies.

In the applicant's PUD Statement four policies of the WAP are cited, as they apply to the vicinity of the subject property. Unincorporated Subarea Policies 11 through 14 (WAP, page 59) recognize the potential for residential/mixed-use development on parcels at least 30 acres in size, and the need to apply /PD zoning for parcels in the subject property area when they are annexed to the City. The subject property does have the /PD overlay zone and is smaller than 30 acres so is not considered suitable for mixed uses such as medium density residential and neighborhood commercial development.

Based on the analysis provided in the applicant's PUD Statement and subsequent staff review of the WAP, staff views the proposed PUD as consistent with the applicable refinement plan policies.

EC 9.8320(3): The PUD will provide adequate screening from surrounding properties including, but not limited to, anticipated building locations, bulk, and height.

The applicant's proposal is consistent in type and character with the existing and proposed developments that are adjacent to the site on the north, west and south. Screening is provided through planting of trees on the north and south property lines of the subject property, as described in EC 9.8515(7)(b) later in this report. The applicant's PUD Statement and plans submitted as part of the application do not provide any other specific screening to or from these adjacent parcels, other than what would normally be provided in any subdivision such as property line fencing, which could be constructed as the responsibility of individual

homeowners if none presently exists. The location, bulk and height of buildings (residences) in the proposal are depicted on architectural renderings submitted with the application ("Bridge Way PUD", Sheets A through A6, undated) and are available in the scanned records for the application. These proposed residences are compatible with the homes located on surrounding properties. Based on the applicant's PUD Statement and a review of the plans cited above, staff views the proposed PUD as consistent with this standard.

EC 9.8320(4): The PUD is designed and sited to minimize impacts to the natural environment by addressing the following:

(a) Protection of Natural Features.

- 1. For areas not included on the City's acknowledged Goal 5 inventory, the preservation of significant natural features to the greatest degree attainable or feasible, including:**
 - a. Significant on-site vegetation, including rare plants (those that are proposed for listing or are listed under State or Federal law), and native plant communities.**
 - b. All documented habitat for all rare animal species (those that are proposed for listing or are listed under State or Federal law).**
 - c. Prominent topographic features, such as ridgelines and rock outcrops.**
 - e. Natural resource areas designated in the Metro Plan diagram as "Natural Resource" and areas identified in any city-adopted natural resource inventory.**

These standards are not applicable, as the subject property does not have any of these features outside of the area on the City's Goal 5 inventory.

d. Wetlands, intermittent and perennial stream corridors, and riparian areas.

No wetlands outside of the Gilham Creek drainageway have been identified on the subject property. A site visit in February 2000 by a wetland consultant found no jurisdictional wetlands present on the site (Tax Lot 1800 TM 17-03-08-23, Gilam (sic) Rd, Eugene, OR, 2/28/00; submitted by applicant).

Two site analysis reports have been completed to determine the boundaries of the top of high bank of Gilham Creek and riparian areas within the subject property. A site analysis completed on September 24, 2014 mapped the boundaries of the top of high bank of Gilham Creek and the boundaries of its riparian corridor (report of Geo Resources LLC, November 8, 2014,). Terra Science, Inc. conducted a site investigation on October 16, 2015 for the the subject property (Delineation of Water Resources Overlay Zone Features for 3848 Gilham Road City of Eugene, Tax lot 01802, Lane County Assessor's Map T.17S. R. 03W, Sec. 08-23, dated November 4, 2015, ("Terra Science report")).

The results of these two reports are generally consistent. The Terra Science report was used to determine precise boundaries as its mapping was completed at a greater level of detail (Attachment B of this staff report). Within the subject property both the Geo Resources and

Terra Science reports found a riparian area outside of the acknowledged Goal 5 inventory area. This additional riparian area has been mapped and will not be developed in the PUD. It is proposed for conservation as addressed in the Standards Review portion of this report, EC 9.8460.

2. For areas included on the City's acknowledged Goal 5 inventory:

- a. The proposed development's general design and character, including but not limited to anticipated building locations, bulk and height, location and distribution of recreation space, parking, roads, access and other uses, will:**
 - (1) Avoid unnecessary disruption or removal of attractive natural features and vegetation, and**
 - (2) Avoid conversion of natural resource areas designated in the Metropolitan Area General Plan to urban uses when alternative locations on the property are suitable for development as otherwise permitted.**
- b. Proposed buildings, road, and other uses are designed and sited to assure preservation of significant on-site vegetation, topographic features, and other unique and worthwhile natural features, and to prevent soil erosion or flood hazard.**

The Terra Science report has identified and mapped the portion of the subject property within the City's acknowledged Goal 5 inventory. As stated in the applicant's information, a Conservation Easement area ("CE") is proposed for the Gilham Creek drainageway, land within 20 feet from the top of bank of Gilham Creek, and an area of existing riparian vegetation outside the 20 foot setback. The CE is shown on Sheet 1.1 of the PUD site plans.

This proposed CE will apply to portions of Lots 12, 13 and 14 and the access drive for Lot 13. General provisions of the CE are outlined in the applicant's PUD Statement:

- * "Future homeowners will be encouraged (required) through City regulation, to maintain the native vegetation within the waterway, the 20' setback area and the riparian vegetation boundary (Conservation Area)." (page 6)
- * "Gilham Creek and the 20' Goal 5 setback, the riparian vegetation, and the woody vegetation that is contiguous to the drainage way is proposed to be protected with a Conservation Easement to be shown on and recorded with the final plat." (page 7)
- * "Restricted areas and the specific restrictions are clearly identified in the CE..." (page 9)
- * "...the CE (conservation easement) will restrict disturbance within the stream and wetland area to the removal of non-native invasive plant species only..." (page 9)
- * "Fences will be allowed in all areas, subject to City standards, except within the CE where no fencing will be allowed. " (page 9)
- * "No buildings or fences will be allowed in the CE as well as native and riparian vegetation to be preserved and protected therein." (page 9)

To ensure that the CE meets these stated objectives, staff recommends the following condition of approval:

- The final PUD shall include a Conservation Easement which follows the boundaries shown on Sheet 1.1 of the tentative PUD plans. This Easement is subject to review and approval as part of the final PUD process, and will be written so as to prohibit the construction of buildings and/or fences, and meet the standards of EC 9.4980.

The tentative subdivision application for this development will also need to reference the Conservation Easement, and have it recorded in conjunction with the final plat. Creation and implementation of the CE will allow, in the opinion of staff, the proposed PUD to comply with provisions of this standard. In addition to the CE, the applicant is proposing the use of construction fencing during the site development phase to ensure compliance with this standard, as shown on Sheet SR-C of submitted site plans.

(b) Tree Preservation. The proposed project shall be designed and sited to preserve significant trees to the greatest degree attainable or feasible, with trees having the following characteristics given the highest priority for preservation:

1. Healthy trees that have a reasonable chance of survival considering the base zone or special area zone designation and other applicable approval criteria;
2. Trees located within vegetated corridors and stands rather than individual isolated trees subject to wind throw;
3. Trees that fulfill a screening function, provide relief from glare, or shade expansive areas of pavement;
4. Trees that provide a buffer between potentially incompatible land uses;
5. Trees located along the perimeter of the lot(s) and within building setback areas;
6. Trees and stands of trees located along ridgelines and within view corridors;
7. Trees with significant habitat value;
8. Trees adjacent to public parks, open space and streets;
9. Trees located along a water feature;
10. Heritage trees.

The applicant has provided a document which addresses this standard, titled Tree Removal – Preservation Plan Bridge Way PUD (“Tree plan”), undated and prepared by Gene Burks. In addition Sheet 1.3 of the PUD plans indicates which of the existing trees are proposed for retention or removal on the entire site, including areas within the City’s acknowledged Goal 5 inventory area.

There are three discrepancies between the Tree plan and Sheet 1.3 of the PUD plans:

<u>Tree number on Sheet 1.3</u>	<u>Designation on Tree plan</u>	<u>Designation on Sheet 1.3</u>
1	Retain	Preserve
32	Remove	Preserve
33	Remove	Preserve

To resolve these differences staff recommends the following condition of approval:

- The final PUD plan shall show which trees on the subject property are designated for

removal, retention or preservation by including a tabular list which has the same format as the tree list shown on Sheet 1.3 of the tentative PUD plans.

With information provided by the applicant, a condition of approval and future subdivision requirements staff views the proposal as meeting this standard at a level that is consistent with tentative PUD approval.

(c) Restoration or Replacement.

1. For areas not included on the city's acknowledged Goal 5 inventory, the proposal mitigates, to the greatest degree attainable or feasible, the loss of significant natural features described in criteria (a) and (b) above, through the restoration or replacement of natural features such as:

- a. Planting of replacement trees within common areas; or**
- b. Re-vegetation of slopes, ridgelines, and stream corridors; or**
- c. Restoration of fish and wildlife habitat, native plant habitat, wetland areas, and riparian vegetation.**

To the extent applicable, restoration or replacement shall be in compliance with the planting and replacement standards of EC 6.320.

2. For areas included on the city's acknowledged Goal 5 inventory, any loss of significant natural features described in criteria (a) and (b) above shall be consistent with the acknowledged level of protection for the features.

The only significant natural features on the site that meet the standard in Section 1 are trees which are located outside of the Gilham Creek acknowledged Goal 5 inventory area.

The applicant has provided a tree replacement plan on Sheets 1.3 and 1.4 of the PUD site plans. To replace existing Douglas fir trees on the north property line of the site, eleven hedge maples are proposed for planting. Seven trees of various species are proposed for planting on the south property line of the site. In addition to planting these 18 replacement trees, the applicant is proposing to plant 13 street trees along the proposed public streets within the subject property. This results in a net loss of 7 to 9 trees on the subject property when accounting for trees proposed for removal.

To ensure compliance with Standard 1, staff proposes the following conditions of approval:

- The final PUD plan shall show the 18 proposed replacement trees located on the north and south boundaries of the site, including their species, time of planting, and method of protection such as construction fencing.
- The final PUD plan shall include notes that state:

“Protective fencing for trees identified to be preserved shall be installed under the direction of a certified arborist and inspected and approved by the City prior to beginning any construction related activities. All protective tree fencing shall remain in place until completion of all construction activities; any relocation or removal of the protective fencing shall also occur under the direction of a certified arborist, with approval by the City.”

“No excavation, grading, material storage, staging, vehicle parking or other construction activity shall take place within the identified tree protection areas without approval by the City.”

“Planting, watering and general maintenance of replacement trees shall be conducted by the property owner in a manner that ensures their establishment and long-term survival.”

For Standard 2, no removal of native plants, trees or other components of criteria (a) and (b) above is proposed for the area within the City’s acknowledged Goal 5 inventory area as shown on Sheet 1.3 of the tentative PUD plans. Trees 32 and 33 are within the Goal 5 inventory area and are proposed for removal in the submitted Tree plan. If these trees are to be removed, or if they or other trees are damaged or diseased and proposed for removal, the following condition of approval is warranted:

- The final PUD plan shall include a note: “Any trees proposed for removal within the Conservation Easement shall be identified under the direction of a certified arborist and inspected and approved by the City prior to beginning any construction related activities, which shall comply with the requirements of EC 9.4980(3). Replacement trees shall be provided at a ratio of two trees for every one being removed and shall be native species, with a minimum caliper of 2 inches for deciduous (canopy) trees and a minimum height of 5 feet for coniferous or evergreen trees.” The final site plan must also show the proposed location of the replacement trees.

Based on these findings and conditions of approval, staff concludes the proposed PUD will comply with this standard.

(d) Street Trees. If the proposal includes removal of any street tree(s), removal of those street tree(s) has been approved, or approved with conditions according to the process at EC 6.305.

This standard does not apply as the proposal does not include removal of any City street trees.

EC 9.8320(5): The PUD provides safe and adequate transportation systems through compliance with all of the following:

(a) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways (not subject to modifications set forth in subsection (11) below).

EC 9.6805 Dedication of Public Ways.

Pursuant to EC 9.6805, as a condition of any development, the City may require dedication of public ways for bicycle and/or pedestrian use as well as for streets and alleys, provided the City makes findings to demonstrate consistency with constitutional requirements. The public ways for streets to be dedicated to the public by the applicant shall conform with the adopted right-of-way map and EC Table 9.6870.

Gilham Road is classified as a Local Access Road under Lane County jurisdiction, and is maintained by the City of Eugene under an Intergovernmental Agreement. It is not identified on the City's adopted Street Classification Map or the adopted Right-of-Way Map (Fig. 60-61 of the Arterial and Collector Street Plan (ACSP)). As adjacent lands are developed, Gilham Road will function as a medium volume street. Based on EC Table 9.6870, medium volume local streets are required to have between 20 and 34 feet of paving with 50 to 60 feet of right-of-way. The tentative plans for the PUD show the existing right-of-way in Gilham Road adjacent to the proposed development is 50 feet wide, with 30 feet on the west (development) side of centerline. No improvements are proposed at this time in Gilham Road. As noted at EC 9.6505(3), the improvements will be deferred to a later date through an Irrevocable Petition.

Within the development, there are no planned or existing streets identified on the Street Classification Map (Fig. 60 ACSP) or Street Right-of-Way Map (Fig. 61, ACSP). Sterling Woods Drive and Nicole Way will function as low-volume local residential streets and Bridge Way will function as an access lane. Sterling Woods Drive is proposed to have 28 foot wide paving in a 55 foot wide right-of-way north of the Bridge Way intersection and 21 foot wide paving in a 45 foot wide right-of-way south of the intersection. Nicole Way is proposed to have 21 foot wide paving in a 45 foot wide right-of-way, and the new street Bridge Way which will function as an access lane will have 21 foot wide paving in a 40 foot wide right-of-way.

Staff concurs with the applicant's proposed street classifications and confirms that the proposed paving and right-of-way widths comply with the widths identified in EC Table 9.6870. The proposed street designs will be more precisely reviewed for compliance with applicable standards during the subsequent Privately-Engineered Public Improvement (PEPI) permit process. Based on these findings, staff confirms that no additional right-of-way dedication or special setbacks for street right-of-way are required beyond what is proposed in the tentative PUD.

EC 9.6810 Block Length.

Based on information provided by the applicant all of the internal block lengths of the proposed development are less than the maximum 600 foot block length. Additionally, the approximately 435 feet of block length in Gilham Road between Sterling Woods Drive and Sterling Park Place complies with this standard.

EC 9.6815 Connectivity for Streets.

In order to meet Street Connectivity standards the proposed development must, at a minimum, provide extensions of the public way which are consistent with subsections (2)(b), (2)(c) and (2)(d). EC 9.6815(2)(b) requires street connections in the direction of any planned or existing streets within ¼ mile of the development site and connections to any streets that abut, are adjacent to, or terminate at the development site. EC 9.6815(2)(c) requires that the proposed development include streets that extend to undeveloped or partially developed land adjacent to the development site in locations that will enable adjoining properties to connect to the proposed development's street system. EC 9.6815(2)(d) requires secondary access for fire and emergency vehicles.

Regarding subsection (2)(a), the proposal for a private street is acceptable, based on the findings in below that a public street in a westerly direction is not necessary. For subsection (2)(b), streets within ¼ mile of the proposed development include Gilham Road, which abuts the proposed development to the east and Meadow View Drive, which is located to the west, but is separated from the proposed subdivision by a tier of developed lots which precludes the extension of a public street in this direction. Streets that terminate at the development site include Sterling Woods Drive to the north and south and Nicole Way to the south.

The applicant's proposal to extend Sterling Woods Drive and Nicole Way through the proposed PUD demonstrates compliance with the requirement to extend streets that presently terminate at the development site.

The applicant requests an exception to the requirement to extend streets in the direction of Meadow View Drive and Gilham Road, based on EC 9.6815(2)(g)(2)(b). Staff concludes the requested exception is warranted because of intervening residential development, which precludes the street extensions.

Subsections (2)(c) and (f) are not applicable because the proposed PUD is surrounded by existing development and there are no unimproved streets adjacent to the subject property.

The proposed development complies with subsection (2)(d) as secondary access is available to the north and south via Sterling Woods Drive and to the south via Nicole Way.

Regarding subsection (2)(e), staff concurs with the applicant's assertion that the proposed street alignment will minimize excavation and embankment and that by terminating the private street on the east side of Gilham Creek, impacts to the Creek and Goal 5 resource are being avoided.

Given the available information and based on the foregoing findings and exception, staff concludes the proposed development complies with the street connectivity standards.

EC 9.6820 Cul-de-Sacs and Turnarounds.

These standards do not apply because no new public cul-de-sacs or streets are proposed or required.

EC 9.6830 Intersections of Streets and Alleys.

The proposed development complies with these standards as all proposed intersections are at right angles to the intersecting streets, and all proposed offsets exceed the minimum intersection spacing requirements of 100 feet for local streets.

EC 9.6835 Public Accessways.

EC 9.6840 Reserve Strips.

EC 9.6845 Special Safety Requirements.

These standards are not applicable as: there are no existing or potential accessways on adjacent sites that dictate the dedication or construction of a public accessway through the proposed development; the proposed development does not create the need to prevent access to

adjoining properties or streets or to control access to the subject property; and no special safety requirements are necessary to discourage use of the streets by non-local motor vehicle traffic. As described in the applicant's PUD Statement, there are three existing reserve strips that are adjacent to the subject property, with the removal of all required as part of the property's future subdivision process.

EC 9.6850 Street Classification Map.

The proposal complies with this standard as discussed in EC 9.6870 Street Width, which is incorporated by reference.

EC 9.6855 Street Names.

This standard requires that names for new streets that are not in alignment with existing streets are subject to approval by the planning director and shall not unnecessarily duplicate or resemble the name of any existing or platted street in Lane County.

Gilham Road is an existing street that is adjacent to the proposed subdivision. Nicole Way and Sterling Woods Drive are existing streets that will be extended into the development.

The proposed street name "Bridge Way" is not acceptable because there are a number of similar sounding street names in Lane County. In order to ensure compliance with this standard, prior to final subdivision approval the applicant will be required to obtain approval from the regional road naming group for an alternate street name.

Based on these findings and a future condition of approval, staff concludes the proposed PUD will comply with this standard.

EC 9.6860 Street Right-of-Way Map.

This standard is not applicable as the proposal does not amend the right-of-way map.

EC 9.6870 Street Width.

The street widths of Gilham Road, Sterling Woods Drive, Nicole Way and Bridge Way have been addressed in EC 9.6805 and comply with the standards in EC Table 9.6870.

EC 9.6873 Slope Easements.

Since the site is relatively flat, there is no requirement for slope easements as a condition of development.

EC 9.6875 Private Street Design Standards.

Staff recommends approval of the proposed private street, pursuant to EC 9.6815(2)(a). This standard requires private streets to be designed and constructed in accordance with applicable requirements.

Staff confirms the proposed private street conceptually complies with applicable standards. As proposed the private street will have a 21 foot paving width, with a curb on the south side and a 3 foot wide sidewalk on the north side of the street in a 26 foot wide private access easement.

Based on these findings and future permit requirements which will be addressed during the subdivision process, staff concludes the proposed PUD will comply with these standards.

(b) Pedestrian, bicycle and transit circulation, including related facilities, as needed among buildings and related uses located on the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, provided the city makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.

The street network within the proposed PUD will provide adequate circulation in all transportation modes as specified in this standard. Public streets within the development will connect to three adjacent streets to the north and south, and complete the connections between these roadways. Uses within ¼ mile of the site are residential in nature, with no neighborhood activity centers, office or industrial parks in this area. As stated in the applicant's PUD Statement, the nearest transit stop is located at the intersection of Gilham Road and Crescent Avenue over 1 mile to the south.

Based on this information, staff concludes the proposed PUD will comply with this standard.

(c) The provisions of the Traffic Impact Analysis Review of EC 9.8650 through 9.8680 where applicable.

The anticipated traffic generated by the proposed PUD does not meet any of the thresholds established in EC 9.8650 through 9.8680. Based on this finding this standard is not applicable.

EC 9.8320(6): The PUD will not be a significant risk to public health and safety, including but not limited to soil erosion, slope failure, stormwater or flood hazard, or an impediment to emergency response.

The Geotechnical report for the proposal states that the site appears to be geologically stable and no further investigation is needed except to verify soil type on individual building lots. It also concludes that no further investigation is needed for construction of public improvements. However, since a significant portion of Lot 13 exceeds 10% slopes additional geotechnical analysis will be required, which is a condition of approval as described and specified in EC 9.6710.

With regard to risk of stormwater or flood hazard, based on the findings at EC 9.8320(11)(c) any structures placed within the identified flood hazard area in the westerly portion of the development site will be required to comply with EC 9.6707 through EC 9.6709. The development itself will not result in unreasonable risk of flood based on the stormwater management evaluation at EC 9.8320(11)(j). As noted in the discussion at EC 9.6791, approval is conditioned on the receipt of an analysis demonstrating that the existing 42 inch culverts have capacity to convey the 10 year flood control storm event. If it is determined that there is

inadequate capacity, the culvert(s) will be required to be upsized to accommodate the design storm event.

With respect to the unreasonable risk of fire and impediments to emergency response, staff notes that the provision of water for fire suppression and the construction of homes in accordance with building and fire codes will result in a risk of fire that is no greater than any other residential subdivision. Additionally, upon completion of the internal street network of the development, emergency response to fire and other health and safety concerns should be improved.

Other public health and other necessary infrastructure improvements have been addressed with respect to EC 9.8320(5)(b) and (11)(b).

Based on these findings, conditions of approval and future permit requirements, staff concludes the proposed PUD will comply with this standard.

EC 9.8320(7): Adequate public facilities and services are available to the site, or if public services and facilities are not presently available, the applicant demonstrates that the services and facilities will be available prior to need. Demonstration of future availability requires evidence of at least one of the following:

- (a) Prior written commitment of public funds by the appropriate public agencies.**
- (b) Prior acceptance by the appropriate public agency of a written commitment by the applicant or other party to provide private services and facilities.**
- (c) A written commitment by the applicant or other party to provide for offsetting all added public costs or early commitment of public funds made necessary by development, submitted on a form acceptable to the city manager.**

Staff concurs with the applicant's statement that adequate public utilities and services, including stormwater and wastewater service, are presently available to the site as indicated on the applicant's plans. Further findings at EC 9.8320(11)(b) and (j), regarding public improvements and stormwater respectively, are incorporated by reference as further evidence that these services are available to the site. Given these findings, staff concludes the proposed PUD meets this standard.

EC 9.8320(8): Residents of the PUD will have sufficient usable recreation area and open space that is convenient and safely accessible.

The applicant's PUD Statement confirms that sufficient usable recreation and open space is accessible, through private yard areas and visual open space provided by the Conservation Easement area contiguous to Gilham Creek. Staff concurs with this finding and concludes the proposed PUD will comply with this standard.

EC 9.8320(9): Stormwater runoff from the PUD will not create significant negative impacts on natural drainage courses either on-site or downstream, including, but not limited to, erosion, scouring, turbidity, or transport of sediment due to increased peak flows or velocity.

Eugene Code provisions in effect on February 28, 2014 are used in this and the following citations. A number of actions that address this standard are proposed for use in the PUD, including a stormwater treatment manhole to treat runoff, a Conservation Easement to prohibit development within the Goal 5 conservation area, and insuring that culverts for the creek crossing are adequately sized. Based on this information and the findings for EC 9.8320(11)(j), staff concludes this standard is met .

EC 9.8320(10): Lots proposed for development with one-family detached dwellings shall comply with EC 9.2790 Solar Lot Standards or as modified according to subsection (11) below.

Eight of the 17 lots in the proposed PUD meet the solar lot standards based on their dimensions and orientation. As stated in the applicant's PUD Statement, all three of the site constraints as described in EC 9.2790(3)(b) exempt the remaining lots in the PUD from this standard. With this finding, staff concludes this standard is met.

EC 9.8320(11): The PUD complies with all of the following (An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.):

(a): EC 9.2000 through 9.3915 regarding lot dimensions and density requirements for the subject zone. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:

- 1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or**
- 2. The /WQ Management Area.**

Four of the lots in the proposed PUD do not meet the above Code standards for lots within the R-1 zone, including the /WR zone standards. The following parcels do not meet R-1 standards, but can be permitted through the PUD process as specified in EC 9.2761(1)(c) and EC 9.8320(11)(k).

- * Lot 1: smaller than 4,500 square feet, frontage less than 50 feet
- * Lot 2: smaller than 6,000 square feet (excluding the pole portion), side yard setbacks less than 10 feet
- * Lot 13: larger than 13,500 square feet

The proposed reductions in size and frontage minimums for Lot 1 are permitted as part of a PUD by EC 9.2761(1)(c). The proposed reduction in size and yard setbacks for Lot 2 can be permitted by EC 9.8320(11)(k) as addressed later in this report.

Lot 13 is proposed to be 23,120 square feet in size which is well over the maximum lot size for the R-1 zone. As stated in the applicant's PUD Statement, this large lot will act to limit development related impacts to the existing Gilham Creek natural resource area, thereby

meeting the intent of EC 9.2761(5)(d) which allows exceptions to lot size requirements for this purpose.

Three lots in the proposed PUD are within the /WR management area, as described more fully in the Standards Review portion of this report. As stated in the applicant's PUD Statement, these lots and the percentage of their area applicable to Standards 1 and 2 above are listed below:

<u>Lot</u>	<u>Total area (acres)</u>	<u>Area subject to St. 1 and 2</u>	<u>Percentage of total</u>
12	.25	.09	36
13	.53	.25	47
14	.15	.04	27

Lots 12 and 13 do not meet the 33 percent limitation in this standard. The increase of 3 percent of /WR area in Lot 12 is relatively minor in scope and results in the buildable portion of the lot being of adequate size to permit the construction of one single family home, thereby meeting the PUD standards in EC 9.8300(1)(d) and (e) by acting to preserve natural resources through clustering new development. Lot 13, because of its relatively large size, still maintains adequate area to allow the construction of one single family residence, and is also consistent with these same PUD standards.

Both Lots 1 and 2 are proposed to take access from Gilham Road which is under the jurisdiction of Lane County. Lane Code provisions relating to lot frontage requirements and facility permitting standards will need to be met for these two lots to take access from Gilham Road.

With the above findings and condition of approval, staff concludes this standard is met for the proposed Lots 1, 12 and 13. As stated earlier, Lot 2 will be addressed under EC 9.8320(11)(k).

(b) EC 9.6500 through EC 9.6505 Public Improvement Standards.

EC 9.6500 Easements

The applicant proposes to dedicate 5 foot wide public utility easements (PUE) adjacent to all rights-of-way, and additionally proposes to dedicate PUE bumpouts at lot corners as needed by utility companies to serve the development. Additionally, the applicant indicates that the entire area of the private street (26 foot wide private access easement) will be dedicated as a PUE in order to facilitate the provision of public wastewater and public storm sewer service. In order to ensure compliance with this standard, the following condition is warranted:

- Prior to final PUD approval, the PUD plans shall be revised to show the proposed PUE over the width of the private access easement.

The applicant also proposes the dedication of a Public Drainage Easement over the existing creek which, based on Note 18 on Sheet 1.1 would also include the 20 foot wide Goal 5 Setback Area. The applicant has clarified that the language in Note 18 should have read: "The proposed drainage easement, and the separate conservation easement are proposed to be in the same location; the drainage easement does not need to be as large as the conservation easement

area, but it is proposed as such for the sake of efficiency.” As discussed at EC 9.6796, since City responsibility is limited to conveyance capacity and does not include items such as maintenance of vegetation, the Public Drainage Easement shall be limited to the areas between the top of banks and shall be 20 feet wide in the area of the existing culverts.

In order to ensure compliance with this standard, the following condition is warranted:

- Prior to final PUD approval, the PUD plans shall be revised to show the Public Drainage Easement as being located within the top banks of the channel, i.e., Gilham Creek, and to include a 20 foot wide strip centered on the existing 42 inch culverts. In addition, Note 18 on Sheet 1.1 – Site and Utility Plan shall be revised to clearly distinguish between the Public Drainage Easement and the Private Conservation Area.

Otherwise, staff confirms that no additional public easements are required to accommodate existing or future public wastewater needs.

EC 9.6500 requires that no building, structure, tree or other obstruction shall be placed on or located in a public utility easement and that prior to approval of a final PUD, final site review plans or final plats, the above restriction shall be noted thereon. Therefore, for compliance with this standard the following condition is warranted:

- The following restriction shall be shown on the final PUD plan, “No building, structure, tree or other obstruction shall be placed or located on or in a Public Utility Easement.”

Based on these findings, conditions and future permit requirements, staff concludes the proposed PUD will comply with EC 9.6500.

EC 9.6505 Improvements – Specifications

This section requires all public improvements to be designed and constructed in accordance with adopted plans and policies, the procedures specified in EC Chapter 7, and standards and specifications adopted pursuant to EC Chapter 7. Additionally, all developments are required to be served by and implement infrastructure improvements including water, sewage, streets, street trees, street lights, sidewalks, access ways, and stormwater drainage. The applicant proposes all public improvements to be privately engineered and constructed.

Based on the above findings and subsequent permit requirements, staff concludes the development will comply with these standards, as discussed in more detail below.

(1) Water Supply

Water service for the proposed development must be provided in accordance with Eugene Water and Electric Board (EWEB) policies and procedures.

(2) Sewage

The standard requires all developments to be served by wastewater sewage systems of the City, in compliance with the provisions of EC Chapter 6. The applicant proposes to connect to an existing stub at the north end of Nicole Way in order to construct an 8-inch mainline through

the development site. The public wastewater system will be located in the public streets of the development as well as in a 26 foot wide PUE which will overlay the private street. Based on these findings, the applicant's proposed wastewater layout conceptually complies with applicable sewage specifications, subject to a more detailed review during the subsequent subdivision and PEPI permit processes.

(3) Streets and Alleys and (4) Sidewalks

EC 9.6505(3)(a) and (b) requires all streets in and adjacent to the development site to be paved to the width specified in EC 9.6870, and improved according to adopted standards and specifications pursuant to EC Chapter 7, unless such streets have already been paved to that width.

As previously discussed at EC 9.6870, the internal streets of the proposed development, Sterling Woods Drive and Nicole Way, will function as low-volume residential streets and Bridge Way will function as an access lane. In addition to the proposed paving widths discussed at EC 9.6870, each of the streets will include curbs and gutters, planter strips for trees and street lights. The proposed street designs and no-parking signage will be reviewed for compliance with applicable standards during the subsequent Privately-Engineered Public Improvement (PEPI) permit process.

Also as previously discussed, the segment of Gilham Road that fronts the subject property is developed with a 21 foot wide driving surface. The applicant is not proposing to improve this segment of Gilham Road to City standards. Staff agrees with the applicant that it is not feasible to improve the specific portion of Gilham Road adjacent to the development site at this time. However, in lieu of immediate street improvements, an Irrevocable Petition for improvements in Gilham Road to include paving, curb, gutter, stormwater facilities, sidewalk, street trees, and street lights will be required prior to approval of the final subdivision plat.

Public testimony submitted by two individuals raised concerns regarding Gilham Road's lack of sidewalks and poor pedestrian safety, especially for children. The road is not improved to City standards and local residents would benefit from its improvement. Annexation and transfer of jurisdictional responsibility for the road will need to take place before the City can assume full responsibility for its improvement and maintenance. In the interim, developments that have frontage on the road right-of-way are required to complete an Irrevocable Petition that will require participation in construction of full improvements as part of a street-wide project. Construction of sidewalks and other improvements within individual segments would not provide for pedestrian safety as would a more comprehensive improvement project for all of Gilham Road north of Ayers Road.

Based on these findings and subsequent subdivision and PEPI requirements, staff concludes the proposed streets and sidewalks within the development will comply with EC 9.6505(3-4).

(5) Bicycle Paths and Accessways

No bicycle paths or public access ways are required based on the previous findings at EC 9.6820 and EC 9.6835, which are incorporated by reference.

(c) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.

The applicant's plans show the westerly portion of the property to be within a special flood hazard area (SFHA). A portion of the property is within Zone A of the flood insurance rate map (41039C-1127-F) produced by the Federal Emergency Management Agency (FEMA).

Development is allowed to occur within the SFHA subject to compliance with the applicable development standards, which are reviewed during the building permit process. Elevating building foundations above the base flood elevation (BFE) is a typical means of compliance. Based on the above findings and future permit requirements staff concludes the proposed PUD meets this standard.

(d) EC 9.6710 Geological and Geotechnical Analysis.

The geotechnical analysis requirements beginning at EC 9.6710 apply because, pursuant to EC 9.6710(2)(b), the proposed development includes dedication and construction of public street, storm drainage, and wastewater systems. Staff confirms that the applicant's analysis, prepared by Donovan B. Mogstad, P.E. of Poage Engineering & Surveying, meets the Level One Analysis requirements of EC 9.6710(4)(a), which consists of a compilation of record geological data, on-site verification of the data and site conditions and a report discussing site and soil characteristics in relation to the proposed development and other applicable standards. The report concludes that the site appears to be geologically stable and that no further investigation is needed except to verify soil type on individual building lots, and also concludes that no further investigation is needed for construction of public improvements.

Based on closer inspection of the existing contours on PUD Sheet 1.2 – Grading Paving, there is a significant strip within Lot 13 that exceeds the 10% slope criteria which triggers a Level 2 analysis. In order to ensure compliance with these standards, the following condition is warranted.

- Prior to final PUD approval, the applicant shall submit a geological and geotechnical analysis for Lot 13 which meets the Level Two Analysis requirements of EC 9.6710(4)(b).

Based on these findings, condition of approval and future permit requirements, staff concludes the proposed PUD will meet this standard.

(e) EC 9.6730 Pedestrian Circulation On-Site.

The standards in this Code section are not applicable as the proposed development is a single family development within the R-1 zone.

(f) EC 9.6735 Public Access Required.

The proposed development complies with public access requirements as each of the proposed lots have frontage on a public or private street, or a shared access easement. Requirements for

the creation of the private street are addressed in the findings for EC 9.6875. The proposed PUD currently provides for access to Lots 1 and Lot 2 from Gilham Road via a shared driveway in a 15-foot wide Shared Access, Utility and Maintenance Easement.

(g) EC 9.6750 Special Setback Standards.

No special setbacks are required for future right-of-way or public utility easements.

(h) EC 9.6775 Underground Utilities.

The applicant's PUD Statement specifies that all on-site utilities will be placed underground, thus complying with this standard.

(i) EC 9.6780 Vision Clearance Area.

These standards apply to all proposed intersections. The applicant's plans show no apparent visual obstructions that would pose a hazard to the traveling public.

(j) EC 9.6791 through EC 9.6797 regarding stormwater destination, pollution reduction, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.

As stated earlier, the Eugene Code provisions which were in effect on February 28, 2014 are applicable to this proposal.

EC 9.6791 Stormwater Destination.

The proposed development is located within Sub-basin WKGL-010 of the Willakenzie Basin. Runoff from the 3.5 acre site will be collected in a piped public system and treated in a stormwater treatment manhole (noted as "Downstream Defender" in applicant's materials) before being discharged to Gilham Creek by a connection to the easterly 42 inch culvert. The specific configuration of the public storm system and outfall to Gilham Creek will be more precisely determined through the PEPI review process.

The applicant's PUD Statement states that "[Gilham] Creek and downstream facilities are able to meet the anticipated future flows from this site without negative impacts on the natural drainage." Staff confirms that there are no identified capacity deficiencies in the modeled portion of the downstream public stormwater system, based on the Eugene Stormwater Basin Master Plan – Volume V of VII for the Willakenzie Basin. Staff does have concerns regarding the capacity of the existing 42 inch culverts. Based on information provided by the applicant that the existing culverts replaced 10 inch and 6 inch culverts about 12 years ago, it is probable that the smaller culverts were not modeled in the City's Basin Master Plan which was published in August 2002, while the smaller pipes would still have been in place. In order to ensure that there is capacity in the replacement culverts, the following condition is warranted:

- Prior to final PUD approval, the applicant shall submit a hydraulic analysis prepared by a licensed engineer for the two existing 42 inch culverts which demonstrates that they have

adequate capacity for the 10 year design storm event. If it is found there is inadequate capacity, the culvert(s) shall be upsized to provide the needed capacity.

If replacement culverts are required they will need to be permitted through a private permit process, prior to public acceptance of the public drainage easement and culverts, which will occur when the public drainage easement is dedicated to the City on the final subdivision plat. Staff also notes that EC 9.4930(2)(g) states “repair or replacement of a privately owned, culverted stream crossing within the same total footprint as the original culvert and crossing” is a permitted activity within the /WR Conservation Area and is not subject to Standards Review.

EC 9.6792 Stormwater Pollution Reduction.

The applicant proposes to construct a stormwater treatment manhole to treat runoff from the entire development site. With respect to Lot 13, the applicant notes that driveway runoff will be piped to the public system for treatment and that roof runoff will either be piped to the public system or treated in an on-site infiltration system.

EC 9.6793 Stormwater Flow Control.

EC 9.6794 Stormwater Oil Control.

EC 9.6795 Stormwater Source Controls.

These sections do not apply because: runoff from the development site is not discharged into a headwaters stream and or into a pipe that discharges into an existing open waterway that is above 500 feet in elevation; the proposed development will not result in any of the conditions listed under EC 9.6794(2) (a)-(d); and because this application will not result in any of the site uses or characteristics listed under EC 9.6795(2) (a)-(h).

EC 9.6796 Dedication of Stormwater Easements.

The applicant proposes to dedicate a Public Drainage Easement over Gilham Creek, including all of the area within the 20 foot wide Goal 5 Setback from the top of banks. The proposed Public Drainage Easement demonstrates compliance with subsections (5)(b-d). Because the City is only responsible for conveyance and capacity, the Public Drainage Easement shall be limited to the areas between the top of banks and shall be 20 feet wide in the area of the existing culverts.

EC 9.6797 Stormwater Operations and Maintenance.

This section is applicable to all facilities designed and constructed in accordance with the stormwater development standards at EC 9.6792 through EC 9.6795, and also specifies when and under what conditions the public will accept functional maintenance. Consistent with these standards, the applicant proposes public operation and maintenance of the proposed stormwater treatment manhole. Additionally, although not identified on the tentative plans, the applicant indicates that the entire area of the private street (26 foot wide easement) will be dedicated as a PUE. Staff notes that because the proposed stormwater treatment manhole will be located in a public easement which will allow for maintenance to be performed by the City and will be constructed through the PEPI process in accordance with the City’s Stormwater Management Manual, the proposed stormwater treatment manhole will comply with the conditions at subsection (4)(b) which are identified as being necessary for public acceptance of the water quality facility.

Regarding the standard at EC 9.6797(3)(d), which requires that applications proposing City operation and maintenance of all or part of the stormwater facility shall include an Operations and Maintenance Agreement in accordance with the facility agreements adopted as part of the Stormwater Management Manual, it is noted that such agreements are not necessary for the ongoing operation and maintenance of the proposed stormwater treatment manhole.

Based on the above findings, condition of approval and future permit requirements, staff concludes the proposed development will comply with these stormwater standards.

(k) All other applicable development standards for features explicitly included in the application except where the applicant has shown that a proposed noncompliance is consistent with the purposes set out in EC 9.8300 Purpose of Planned Unit Development.

The development standards of the R-1 zone will be addressed during the building permit process as homes are built on individual lots. The proposed Lot 2 does not comply with the lot size and frontage requirements for flag lots in the R-1 zone (EC Table 9.2760). Its proposed lot size is 5,832 square feet, which is less than the 6,000 square foot minimum (excluding the flag portion) and its proposed west and east yard setbacks are 5 feet, less than the 10 foot minimum. This reduced lot size and setbacks are consistent with the provisions of EC 9.8300(1)(a) and (e) in that homes on Lots 1 and 2 will be sharing a driveway (a) and clustering their location (e).

As stated earlier under EC 9.8320(11)(a) three other proposed lots in the PUD do not meet R-1 standards but are permitted due to being part of a PUD. Based on information in the applicant's PUD Statement and staff analysis, staff concludes the elements of noncompliance proposed for Lot 2 are consistent with EC 9.8300 and comply with this standard.

EC 9.8320(12): The proposed development shall have minimal off-site impacts, including such impacts as traffic, noise, stormwater runoff and environmental quality.

Traffic – The development will have minimal off-site traffic impacts pursuant to the applicable street standards. As previously discussed in EC 9.8320(5)(c) the proposed PUD does not require a formal traffic impact analysis (TIA). In reviewing the applicant's supplemental TIA information, staff recommends approval of the information, which shows off-site impacts will maintain City adopted levels of service and thereby addressing the above standard.

Stormwater – Off-site impacts of stormwater runoff are addressed as part of the applicant's proposed public stormwater collection, conveyance, and treatment system, as discussed previously. Based on these findings, staff concludes that the proposed PUD will meet this standard.

Noise – The development is not expected to generate noise greater than that from a typical residential area.

Environmental Quality – The subject property is within the /WR Water Resources Conservation

Overlay Zone as are adjacent properties to the north and south. The development will be subject to the requirements of this Overlay Zone that are intended to preserve off-site environmental quality. In compliance with City standards, the applicant has committed to stormwater techniques that are intended to reduce pollutant and sediment discharge into the City's public stormwater system. Based on these findings, staff concludes the proposed PUD will meet this standard.

EC 9.8320(13): The proposed development shall be reasonably compatible and harmonious with adjacent and nearby land uses.

As noted previously, the project site abuts residentially developed or zoned properties on all sides. The development density and type proposed for the site is compatible with existing development. Based on this finding, staff concludes the proposed PUD will meet this standard.

EC 9.8320(14): If the tentative PUD application proposes a land division, nothing in the approval of the tentative application exempts future land divisions from compliance with state or local surveying requirements.

The applicant proposes to divide the subject property into 17 lots, which will require a subsequent subdivision application process to ensure consistency with state and local survey requirements.

EC 9.8320(15): If the proposed PUD is located within a special area zone, the applicant shall demonstrate that the proposal is consistent with the purpose(s) of the special area zone.

This standard is not applicable as the subject property is not located within any of the special area zones as listed in EC 9.3000 through EC 9.3980.

Standards Review Evaluation

As part of the PUD proposal, the applicant is requesting a Standards Review Evaluation to allow development activity to take place within the /WR conservation area on the subject property. Specific development activities proposed as part of this Evaluation are construction of an impervious surface private driveway for Lot 13, construction of public storm sewer components and installation of private utilities, all in an existing culvert crossing within the /WR conservation area.

EC 9.4930(3) identifies the uses that are permitted subject to Standards Review. The Standards Review provisions begin at EC 9.8460, which confirm that the process is a Type II application, refers to the code section that calls for Standards Review for the applicable approval criteria, and requires that a qualified professional prepare the application. Since the Standards Review application is being processed concurrently with the PUD proposal, it is being processed as a Type III application. The Standards Review application was prepared by the design team for the proposed PUD on the subject property, including a certified arborist, Gene Burks. A certified Professional Wetland Scientist (David Monnin, Terra Science Inc.) developed detailed

information used in preparing the application.

The applicant is using an approach taken with other Hearings Official and City approved PUD and Standards Review applications for determining the scope and effect of /WR zone regulations on the subject property, in order to meet the requirements of EC 9.4920. This will confirm that the PUD site plan of the subject property includes:

1. boundaries of the Goal 5 Water Resource Site as defined by EC 9.0500;
2. the 20 foot conservation setback associated with the top of high bank (TOHB); and
3. the portion of the site that is subject to the provisions of the /WR zone.

This approach is being used as an alternative to the /WR map correction standards in EC 9.4960. From this information staff will complete the Standards Review evaluation to determine if the tentative PUD is consistent with the provisions of the /WR zone.

The applicant has provided information specific to the Standards Review portion of this application (Standards Review Application Narrative, February 18, 2015) ("SR narrative"). The subject property is within the /WR Water Resources overlay zone, EC 9.4900 et seq. due to the presence of Gilham Creek, an ephemeral stream, which is a Goal 5 resource identified in the "Goal 5 Water Resources Conservation Plan" as adopted by Ordinance No. 20351 (Nov. 14, 2005) ("Goal 5 Plan"). The Goal 5 Plan identifies Goal 5 Water Resource Sites, which are defined in EC 9.0500 as:

Goal 5 Water Resource Site. As used in EC 9.4900 to 9.4980 and 9.8030(21), the resource site as identified in the Goal 5 Water Resources Conservation Plan. For riparian corridor and upland wildlife habitat sites, the Goal 5 Water Resource Site includes the stream and riparian areas that may extend beyond applicable conservation setbacks. Wetland sites include only the wetland, itself.

Gilham Creek is in a Category D Riparian Corridor, Site E76 B-3, with a 20-foot Conservation Setback from the Top of High Bank ("TOHB"). See EC 9.4920(1)(c)1. As such, the use is required to comply with development standards (1) through (11) at EC 9.4980 /WR Water Resources Conservation Overlay Zone Development Standards.

1. Specify boundaries of the Goal 5 Water Resource Site as defined by EC 9.0500.

The official map for the resource site on the subject property is shown in Section IV, Map 15 (Attachment C of this staff report) of the City's Goal 5 Plan. The subject property is generally located where the "E76 B-3" notation is placed.

Attachment A of this report has applied the Goal 5 plan maps for general reference to the City's digital tax lot data base with an aerial photo overlay. The site plan for the proposed development, in contrast, must be based on current survey data. In other words, the generalized Goal 5 resource maps must be accurately reconciled to a surveyed map of the property.

The Hearings Official Decision for the Alder Woods PUD (adjacent to the subject property on the south: City file PDT 07-5, 9/10/08) outlines a basic methodology and establishes several requirements for applying the Goal 5 Plan (reconciling the plan depiction of Goal 5 resources) in such instances. This process for identifying the resource site is outlined below:

- (1) The city has the initial burden under state law to identify the standards and review the application against those standards. That means the city must identify the Resource Site and explain the methodology it used to establish it.*

The City 's Goal 5 inventory (as shown in Attachment C) identifies the boundaries of the /WR resource site on the subject property at a general level of detail. In the Alder Woods case, the Eugene Planning Commission characterized the Goal 5 inventory of resource sites as a "generalized delineation." Thus, the applicant has the burden of showing why the resource area is misidentified, and correspondingly must explain why the proposal meets the applicant's view of the standard (that, given the boundaries of the /WR resource site, the proposed conservation setback is consistent with the setback methodology set out in EC 9.4920).

- (2) The Goal 5 Plan maps are ambiguous, due to their scale. They are to be interpreted in conjunction with the text of the Goal 5 Plan, that is, "interpretations of ambiguous boundaries of the resource area should include the features that define the site."*

Upon appeal of the Alder Woods application, the Planning Commission generally agreed with the methodology of the Hearing Official, but changed the application of that methodology slightly. The Commission said:

The Planning Commission finds that the correct process for delineating the Goal 5/WR boundary is to:

- a) Begin with a generalized delineation of the /WR site boundary based on the applicable map of "Significant Goal 5 Riparian Corridors and Wildlife Habitat Sites" in Section III of the Goal 5 Water Resources Conservation Plan.*
- b) If the delineation of the /WR Site boundary under (a) is not precise enough to determine compliance with applicable criteria and standards [FN1 omitted] or is otherwise unsatisfactory, the next step is to arrive at a more precise depiction of the resource site boundary by relating the applicable text of the Goal 5 Water Resources Conservation Plan to site-specific evidence regarding the site's condition in 2005 (when the City adopted the Plan). This may result in a site boundary determination that is noticeably different from that in (a).*

In the Alder Woods case, the Planning Commission reached the conclusion that the evidence regarding the condition of the riparian corridor and surrounding area, historically and in the recent past, was sufficient to establish that the site's condition in 2005 was such that certain areas did not meet applicable Goal 5 criteria. Therefore, those areas were not included within the boundary of the resource site.

As in the Alder Woods case, the applicant desires a more precise definition of the resource site on the subject property. In the Alder Woods case the Hearing Official and Planning Commission

used the Goal 5 Plan text for guidance in defining resource site boundaries.

Goal 5 Tier One Criteria

There are 9 “Tier One Criteria” in Section II of the Eugene Goal 5 Plan against which each Resource Site was (is) rated. The entirety of Gilham Creek is a single Riparian Site in the Goal 5 Plan – Site E76 B-3.

The entirety of Gilham Creek is rated in Section III of the Goal 5 Plan as having the presence of Criteria 3, 4 and 8. These standards are the text of the Plan to be consulted in order to resolve the ambiguity about boundaries of the Resource Site.

Field data were collected to determine the footprint of the three Tier One Criteria described in the Goal 5 Plan as present on this site. The applicant’s representatives from Terra Science Inc. and Geo Resources LLC both located the top of high bank (TOB) and ordinary high water (OHW). These data are represented on the PUD site plan sheets. See the applicant’s Exhibit 2 of the Terra Science report (Attachment B).

The Terra Science report addresses the following Tier One Criteria:

- *Criterion 3: Undeveloped areas that contain natural vegetation (non-cultivated, including forests, natural prairies, and meadows) and are within sites larger than one acre.*
- *Criterion 4: Undeveloped natural areas that are contiguous with a water feature.*
- *Criterion 8: Native plant communities within the Federal Emergency Management Agency (FEMA) floodway and 100-year floodplain.*

Within the subject property the Terra Science report found areas of natural vegetation are limited to the 20 foot setback area from TOB, except for areas with riparian vegetation such as balsam poplar, Oregon ash and black hawthorne that are outside this setback to the east of the creek. This additional riparian area has been mapped and is proposed for conservation through application of a Conservation Easement. These undeveloped natural areas are contiguous to Gilham Creek and are within its 100 year floodplain as identified by FEMA.

The applicant has provided evidence that supports a conclusion that the subject property, as a whole, reflects a stability of natural conditions that has persisted for decades. This is supported by the fact that the majority of the site is and has been a mowed field which is apparent from reviewing historical aerial photos taken in 2004 (Attachment D of this report). These photos also indicate the approximate boundary between riparian and upland (field grass) vegetation has been unchanged since that time. The applicant also has submitted two letters (Kaiser, 8/13/15; Adkins, 9/9/15) included in their materials, both of which state no change in the riparian area boundary to the east has changed since 2002.

Staff also notes the absence of evidence of material change in the decade since the Goal 5 inventory was adopted for this site, or otherwise contrary to the applicant’s information.

2. Apply the 20-foot Conservation Setback associated with the TOHB and depict it on the Surveyed Site Plan of the Property.

For the Riparian Corridor, the TOHB, as defined by the code, was located in the field and surveyed and the 20-foot Conservation Setback was measured from that point. The “Resource Site,” as defined in the Code at EC 9.0500, is the ephemeral stream. The Conservation Area, as defined in EC 9.4920, extends to 20 feet from the TOHB and in one area outside this setback to include riparian vegetation such as a grove of balsam poplar trees (and other riparian species) .

As stated in the PUD analysis, the applicant is proposing the creation of a Conservation Easement (CE) which will serve the purpose of a Conservation Area. Mapping of this CE on the final PUD site plan is a recommended condition of approval on the tentative PUD application.

3. Identify the portion of the site that is subject to the provisions of the /WR zone.

EC 9.4920(1)(b) and (c) specify which portions of the subject property are considered to be within the /WR zone. Based on the information provided and described in the previous two sections, staff agrees that the area within the applicant’s proposed Conservation Easement is the portion of the site subject to the provisions of the /WR zone and defined as its Conservation Area.

EC 9.4920(5) exempts certain historic improvements (i.e. prior developed areas) from the protected Conservation Area. That section says:

(5) Areas which the applicant has shown to have been developed prior to November 14, 2005, are excluded from /WR conservation areas. For purposes of this subsection, “developed” means within the footprint of a legally constructed:

- (a) Building, or other substantial structure constructed on a concrete foundation;*
- (b) Permanent dwelling (including manufactured dwelling) constructed without a concrete foundation;*
- (c) Permanent deck or patio that is attached to a structure listed in subsection (a) or (b) above; or*
- (d) Paved or gravel parking area, road, or driveway that serves uses in an adjacent building or structure listed in subsection (a) or (b) above.*

Fences and landscaping do not cause an area to be “developed” to warrant exclusion from the /WR conservation area.

The creek crossing has been in existence since 2002 but does not qualify for an exemption as it does not serve any structures. It was constructed under the authority of Corps of Engineers permit 2001-01014, and City of Eugene permit 00-04283-01.

The footprint of the crossing through the Conservation Area is specifically delineated on the PUD plan sheets. As stated in the applicant’s SR Narrative, this crossing will be rebuilt to provide for an impervious surface private driveway for Lot 13, construction of public storm sewer components and installation of private utilities.

4. Plan the tentative PUD consistent with the provisions of the /WR zone.

The provisions of EC 9.4930(3) Uses Subject to Standards Review within /WR Conservation Areas and EC 9.4980 /WR Water Resources Conservation Overlay Zone - Development Standards apply to the proposed PUD. The tentative PUD proposes that the lots adjacent to Gilham Creek extend to the middle of the creek. Thus, portions of these lots will be subject to the conservation measures and use restrictions that come with the /WR zone.

Two of these lots (Lots 12 and 13) will have more than 33% of their square footage in the Conservation Area. As discussed under EC 9.8320(11) in the PUD portion of this report, the buildable portions of these lots are large enough to permit the construction of one single family home each and act to preserve natural resources through clustering new development.

Lot 13 will exceed the 13,500 total square footage limitation due to inclusion of the creek and Conservation Area. This oversized lot is justified under the Code standards that apply, as discussed elsewhere in this staff report.

EC 9.4930(3) Uses Subject to Standards Review within /WR Conservation Areas.

The following uses are not permitted outright by subsection (2), prohibited by subsection (4), or exempted under subsection (5), but are permitted subject to Standards Review and the applicable /WR Development Standards. The provisions of EC 9.4930(3)(a), (c), (d), (f), (g), (i) and (k) are not applicable to this proposed PUD.

(3)(b) Construction of public improvements (including but not limited to streets, bridges, paved bikeways and pedestrian paths, and public utilities) required by this land use code or specified in adopted plans. Subject to EC 9.4980 /WR Conservation Overlay Zone Development Standards (1) through (11).

Staff concurs with the applicant's assertion that because there are no other gravity based stormwater discharge options available, a public stormwater pipe will need to be extended from the proposed stormwater treatment manhole ("Downstream Defender"), to be discharged to Gilham Creek at the existing culverts for the stream crossing. Recommended findings for compliance with applicable standards are provided below at EC 9.4980(1-11).

(3)(e) Construction of new underground utility lines within /WR conservation areas of Category A, B, C, or D streams or Category A, B, or C wetlands. Subject to EC 9.4980 /WR Water Resources Conservation Overlay Zone Development Standards (2) through (5) and the following additional standards:

- 1. No reasonable alternative route exists to provide service to an un-served area or to connect to an existing line.**
- 2. Routing of the new utility lines shall be designed so as to minimize adverse impacts to habitat within the /WR area to the greatest extent practicable.**
- 3. Excavated areas shall be backfilled to the previous grade with existing native soils used for the uppermost three feet of backfill whenever possible and in no case less than the uppermost two feet of backfill.**

4. **Construction of new utility facilities shall be planned and timed to minimize adverse impacts to wildlife and habitat within a /WR conservation area.**
5. **Impacts to plant species listed as threatened or endangered by ODA or USFWS shall be avoided.**

Since the public street system and public utilities will not be extended across the conservation area, private utility lines (wastewater, water, electric, gas and communications) will need to be extended through the conservation zone to serve Lot 13. The private utilities are proposed to be located underneath the existing culverts, presumably using trenchless techniques, which would greatly reduce or eliminate impacts within the conservation area.

In regards to standard (1) above, staff concurs with the applicant that crossing the channel appears to be the only reasonable route to providing service to Lot 13, particularly since the proposed crossings would be within the existing developed crossing. In regards to standards (2), (3), and (4) above, trenchless techniques for the utilities (rather than excavation) minimizes impacts to the greatest extent practicable.

Recommended findings for compliance with applicable standards are provided below at EC 9.4980(2-5).

(3)(h) Discharge of stormwater collected from impervious surfaces into a wetland or stream within the /WR conservation area, if the following standards (1) through (4) are met.

1. **No other gravity based stormwater discharge options are available for the site.**

Staff confirms there are no other gravity-based stormwater discharge options available for the site and that Gilham Creek is the acknowledged conveyance system for the subject property and surrounding basin.

2. **All stormwater runoff from the development site that will result from the water quality design storm will be treated by a privately constructed and maintained stormwater management facility prior to discharge. For purposes of this subsection, the term “water quality design storm” means a theoretical storm for estimating the amount of stormwater runoff to be treated, and is different for volume based facilities and flow-through facilities as follows...**

This standard is not applicable as all stormwater from the development site will be treated in a publicly maintained stormwater treatment manhole, per the findings below at standard (3).

3. **The stormwater is treated prior to discharge utilizing one or more of the stormwater management facilities; eco-roof, stormwater planter, swale, filter, infiltration basin, and manufactured treatment facility.**

All stormwater runoff from the impervious surfaces of the development will be treated in a stormwater treatment manhole which will be designed, approved and constructed through the PEPI process.

4. Design and construction of the stormwater management facility is subject to EC 9.4980 /WR Development Standards (2) through (5).

Further findings of compliance with applicable standards are provided below at EC 9.4980(2) through (5).

(3)(j) Construction of a private access road where no other point of access is available except through the /WR conservation area of a Category A, B, C, or D stream or a Category A, B, or C wetland, and where the number of stream or wetland crossings is the minimum necessary for the approved use. Subject to EC 9.4980 /WR Water Resources Conservation Overlay Zone Development Standards (2) through (6) and (10).

An existing, graveled culvert crossing in Gilham Creek is currently the only means of access to the westerly portion of the site and will result in the least amount of disruption to the Goal 5 resource. As noted by the applicant, the culverted crossing was previously approved through a City building permit. Improvements to the crossing will include paving to an 18 foot width which is consistent with its existing width and construction of decorative bridge features.

Further findings of compliance with applicable standards are provided below at EC 9.4980(2) through (5).

EC 9.4980(1): Enhancement. Where the /WR conservation area is reduced, or uses are approved within the /WR conservation area, the remaining /WR conservation area shall be enhanced consistent with this subsection and by removing non-native plant species and planting native plant species consistent with subsections (2) and (3) below.

(a) All refuse, toxic materials and any fill that limits or decreases the capacity of the conservation setback area to filter pollutants from runoff that flows across the conservation setback area shall be removed (not including stormwater collected and discharged from impervious surfaces).

No toxic materials or fill that would limit the filtering of pollutants within the conservation area are known to be present onsite. This standard is met.

(b) Where practicable, finished grades shall encourage sheet flow of runoff across conservation setback areas to maximize filtering and infiltration of precipitation and runoff within conservation setback areas (not including stormwater collected and discharged from impervious surfaces).

No grade changes are proposed within the conservation area, with the possible exception of minor changes for the access roadway. Based on these findings, this standard is met.

(c) On sites where the slope within the conservation setback area exceeds 15 percent, measures (e.g., planting and contouring) shall be taken to slow the flow of runoff to the maximum extent practicable (not including stormwater collected and discharged from impervious surfaces).

This standard is not applicable because no slopes above the top of bank and within the conservation area exceed 15%.

(d) Non-native plants shall be permanently removed to the maximum extent practicable and replaced with native plant species in accordance with subsection (3) below.

(e) Except as required by EC 9.4980(2)(c), EC 9.4980(3)(d) and EC 9.4980(3)(e), site work to enhance the conservation setback area shall be completed prior to or concurrent with other site development, unless appropriate native plant species are not available within that time frame.

The only site disturbance proposed for the conservation area will involve the existing stream crossing area and installation of a stormwater treatment manhole. An insignificant amount of plant removal will take place during this construction activity given the existing conditions and small area involved.

EC 9.4980(2): Vegetation Removal. Vegetation removal within the /WR conservation area and within areas removed from the /WR conservation area shall comply with the following standards...

EC 9.4980(3): Planting and Replanting. Planting or replanting with the /WR conservation area shall comply with the following standards...

As stated earlier under EC 9.8320(4)(c)2., no removal of native plants or trees is proposed within the /WR conservation area. If any trees are proposed for removal, a condition of approval has been provided that addresses the above Code standards.

With this potential condition of approval, staff concludes this standard is met.

EC 9.4980(4): Construction Practices. Construction with the /WR conservation area, and within areas removed from the /WR conservation area shall comply with the following standards:

(a) For purposes of this subsection, heavy machinery is defined as motorized or mechanized machinery or equipment capable of deliberately or inadvertently damaging vegetation, or damaging or compacting soil. The following standards shall apply to use of heavy machinery within the /WR conservation area:

- 1. On sites where soils are susceptible to severe compaction or structural damage when wet or saturated, use of heavy machinery shall be limited to the period between June 15 and September 30, unless otherwise approved by the planning director.**
- 2. Use of heavy machinery shall be the minimum necessary for the use or activity and shall be restricted to those areas where its use is necessary.**

The applicant confirms that all work on the Lot 13 access drive will be within the parameters of this standard. The following condition of approval is warranted to ensure compliance:

- Use of heavy machinery on the portion of the subject property located within the conservation easement shall only take place between June 15th and September 30th, unless otherwise approved by the Planning Director.

With this condition of approval, staff concludes this standard is met.

(b) Petroleum products, chemicals, or other deleterious materials used in the construction process shall not be allowed to enter a stream or wetland that is within a /WR conservation area.

This standard will be met as the contractor is required to comply with all Erosion Prevention and related requirements set forth by the Eugene Code.

EC 9.4980(5): Filling, Grading and Excavating. Filling, grading and excavating within the /WR conservation area and within areas removed from the /WR conservation area shall comply with the following standards:

(a) Filling, grading or excavating of more than 500 square feet must comply with Erosion Prevention regulations for sensitive areas in EC 6.645.

With an estimated disturbance of approximately 800 square feet as per the applicant's PUD Statement, this project is subject to the Erosion Prevention regulations for sensitive areas in EC 6.645. Staff further notes that an Erosion Permit, which will be obtained for construction of the Bridge Way PUD public improvements, will incorporate all of the improvements located in the subject crossing as well.

(b) Grading and excavating conducted as part of restoration or enhancement projects, and bank and channel reconfiguration shall result in topography that resembles landscapes shaped only by natural processes, for example, incorporating the undulations, meanders and slopes found in such landscapes. For purposes of this standard, straight lines and geometric or angular shapes are not acceptable. Channel and stream bank slopes shall not exceed 25 percent at elevations of 500 feet or less.

This standard is not applicable as the proposed project is not a restoration or enhancement project and does not include bank or channel reconfiguration.

EC 9.4980(6): Impervious Surfaces. Within the /WR conservation area, construction of new impervious surfaces shall comply with the following standards:

(a) Impervious surfaces are prohibited within the /WR conservation area unless they are part of a use approved in accordance with EC 9.4930(3).

(b) Impervious surfaces that are part of a use approved in accordance with EC 9.4930(3) shall be no larger than the minimum necessary for the approved use. For sites with wetlands, impervious surfaces shall be located as far from the boundaries of locally significant wetlands as practicable. For riparian and upland wildlife habitat sites, impervious surfaces shall be located as far from the line of ordinary high water as practicable.

(c) Durable porous paving treatments or other infiltration devices approved by the

planning director or decision-maker shall be used in lieu of standard impervious paving surfaces to increase infiltration of stormwater where practicable. This standard shall apply only to low volume parking areas, foot paths or lightly used access roads, where porous soils and flat topography will facilitate infiltration of runoff. For the purposes of this subsection, gravel surfaces are not acceptable as porous paving or as an infiltration device.

As noted by the applicant, only private access roads such as the proposed driveway for Lot 13 are subject to standard 6. With respect to standard (6)(a), the private access is approved through EC 9.4930(3). Staff also notes that runoff from the paved crossing will be collected in trench drains on each end of the crossing before being routed to the stormwater treatment manhole. Regarding standard (6)(b), an 18 foot paving width is proposed for the Lot 13 access drive. The standard at (6)(c) is not applicable since asphalt paving will be utilized for the crossing. Staff confirms that porous paving over the existing culverts would have a negative impact on the structural integrity of the culverts and is not recommended.

Based on the available evidence and these findings, staff concludes the proposed project complies with this standard.

EC 9.4980(7): Site Layout, (8) Lighting and (9) Trails.

These standards are not applicable as the /WR conservation area shall not be reduced, high intensity uses are not present within the development site, and no lighting or trails are proposed.

EC 9.4980(10): Stream and Channel Crossings. Bridges or other structures that cross streams or wetlands within the /WR conservation area or areas removed from the /WR conservation area shall be constructed so that water flow, vegetation growth and movement of aquatic animals and water dependent wildlife are impeded to the least extent practicable. To meet this standard, bridges and crossings shall include, but are not limited to, applicable items from the following list....

(d) Culverts shall not substantially increase or decrease water depth or flow rate conditions upstream or downstream from the culvert.

(e) The lower lip of all culverts shall meet the stream or channel bed at or below grade.

(f) Culverts shall be the minimum length practicable, and fill on top of the culvert shall have the minimum footprint practicable.

As Gilham Creek is within Category D, subsections (a), (b), and (c) do not apply.

The bridge providing access to Lot 13 otherwise complies with subsections (d), (e), and (f) because no new culverts or changes to existing culverts are proposed at this time, and the existing culverts are at or below existing grade of the channel.

If, based on the EC 9.6791 condition of approval new culverts are required, the following additional condition of approval is warranted:

- If new culverts are required for the existing stream crossing on the subject property, their installation shall meet the requirements of EC 9.4980(10) (d), (e) and (f).

With this potential condition of approval, staff concludes this standard is met.

EC 9.4980(11): Interpretive Facilities.

This standard is not applicable as the proposed project does not include any interpretive facilities.

Staff Recommendation

The applicant appears to have avoided or otherwise minimized potential new impacts to the existing creek and associated natural resources on the subject site. With the conditions of approval discussed above and based on all the available evidence, staff concludes the proposed PUD will comply with applicable development standards of the /WR overlay zone beginning at EC 9.4900.

For the reasons stated above, staff recommends conditional approval of the proposed PUD and the Standards Review application.

The following conditions of approval are provided to the Hearings Official, as discussed in greater detail as part of the preceding evaluation:

- 1) The final PUD shall show which trees on the subject property are designated for removal, retention or preservation by including a tabular list on the final PUD plan which has the same format as the tree list shown on Sheet 1.3 of the tentative PUD plans.
- 2) The final PUD shall include a Conservation Easement which follows the boundaries shown on Sheet 1.1 of the tentative PUD plans. This Easement is subject to review and approval as part of the final PUD process, and will be written so as to prohibit the construction of buildings and/or fences, and meet the standards of EC 9.4980.
- 3) The final PUD plan shall include the following note: "Protective fencing shall be installed at the boundary of the exempted area as shown on the PUD site plans, with written confirmation provided from the applicant surveyor or engineer as to the correct location, and subject to inspection and verification by City staff. The required protective fencing shall be installed prior to any construction related activity or other impacts, and to remain in place until completion of any construction related activity for the proposed development. "
- 4) The final PUD plan shall show which trees on the subject property are designated for replacement, including their species, time of planting, and method of protection such as construction fencing.
- 5) The final PUD plan shall include the following notes:

“Protective fencing for trees identified to be preserved shall be installed under the direction of a certified arborist and inspected and approved by the City prior to beginning any construction related activities. All protective tree fencing shall remain in place until completion of all construction activities; any relocation or removal of the protective fencing shall also occur under the direction of a certified arborist, with approval by the City.”

“No excavation, grading, material storage, staging, vehicle parking or other construction activity shall take place within the identified tree protection areas without approval by the City.”

“Planting, watering and general maintenance of replacement trees shall be conducted by the property owner in a manner that ensures their establishment and long-term survival.”

“Any trees proposed for removal within the Conservation Easement shall be identified under the direction of a certified arborist and inspected and approved by the City prior to beginning any construction related activities, which shall comply with the requirements of EC 9.4980(3). Replacement trees shall be provided at a ratio of two trees for every one being removed and shall be native species, with a minimum caliper of 2 inches for deciduous (canopy) trees and a minimum height of 5 feet for coniferous or evergreen trees.” The final site plan must also show the proposed location of the replacement trees.

“Use of heavy machinery on the portion of the subject property located within the Conservation Easement shall only take place between June 15th and September 30th, unless otherwise approved by the Planning Director. “

- 6) Prior to final PUD approval, the PUD plans shall be revised to show the proposed Public Utility Easement over the width of the private access easement.
- 7) Prior to final PUD approval, the PUD plans shall be revised to show the Public Drainage Easement as being located within the top banks of the channel, i.e., Gilham Creek, and to include a 20 foot wide strip centered on the existing 42 inch culverts. In addition, Note 18 on Sheet 1.1 – Site and Utility Plan shall be revised to clearly distinguish between the Public Drainage Easement and the Private Conservation Area.
- 8) The following restriction shall be shown on the final PUD plan, “No building, structure, tree or other obstruction shall be placed or located on or in a Public Utility Easement.”
- 9) Prior to final PUD approval, the applicant shall submit a geological and geotechnical analysis for Lot 13 which meets the Level Two Analysis requirements of EC 9.6710(4)(b).
- 10) Prior to final PUD approval, the applicant shall submit a hydraulic analysis for the two existing 42 inch culverts which demonstrates that they have adequate capacity for the 10 year design storm event. In the event that there is inadequate capacity, the culvert(s) shall be upsized to provide the needed capacity.

- 11) If new culverts are required for the existing stream crossing on the subject property, their installation shall meet the requirements of EC 9.4980(10) (d), (e) and (f).

Consistent with EC 9.7330, unless the applicant agrees to a longer time period, the Eugene Hearings Official shall approve, approve with conditions, or deny a Type III application within 15 days following close of the public record. The decision shall be based upon and be accompanied by findings that explain the criteria and standards considered relevant to the decision, stating the facts relied upon in rendering a decision and explaining the justification for the decision based upon the criteria, standards, and facts set forth.

Notice of the written decision will be mailed in accordance with EC 9.7335. Within 12 days of the date the decision is mailed, it may be appealed to the Eugene Planning Commission as set forth at EC 9.7650 through EC 9.7685.

Informational items

These items are not part of these applications but will need to be addressed during the future subdivision application or subsequent permitting processes for the subject property.

Private street

- * The private street will need to be formally created by a separate document, i.e., Private Joint Use Access and Utility Easement and Maintenance Agreement (JAM), or similar document. The JAM will include a description defining the area of the private street and will also identify permitted improvements, construction expectations, rights of usage and maintenance responsibilities for the facilities in the private street, as well as responsibilities for the public sidewalk adjacent to the private street. The JAM will be recorded concurrent with and cross-referenced on the final subdivision plat.
- * The private street access easement is undefined in terms of a Lot designation. As such, it would not have a legal definition to which ownership could be attached. In order to ensure that all parts of the subdivision are legally definable, the ownership and rights of the paved area of the private street shall be designated as a separate Lot, i.e., Lot "A" – Common Area, or shall be included among the proposed Lots of the subdivision.
- * Provisions ensuring emergency access over the private street will need to be addressed. These may be included in the JAM, or may be dedicated as a Public Emergency Access Easement on a standard City form.
- * The portion of the public sidewalk that is adjacent to the private street will be the responsibility of the lots benefitting from the private street and will need to be noted in the JAM. If the applicant prefers, the private sidewalk could be moved to the south side of the street, in which case the public sidewalk could terminate without crossing the private street and there would be no need for private maintenance of a public sidewalk at that location.

- * The access connection to the private street shall be constructed as a standard driveway apron.

- * The private street and private driveway over the culverts will need to be designed to meet the Fire Code requirements for load bearing capacity. As such, the structural design of the private street as depicted in the Private Street Section on Sheet 1.2 – Grading Paving Plan is not specifically approved, but will be subject to additional review at the time of the site development and building permits.

- * The structural design and construction inspection for the private street shall remain the developer's responsibility. Certification by a licensed engineer that a structural design meeting the public standards outlined above has been completed shall be submitted at the time of the site development permit for the private street.

Additional street related

- * The proposed street name "Bridge Way" is not acceptable because there are a number of similar sounding streets in Lane County. In order to ensure compliance with this standard, prior to final subdivision approval the applicant will be required to obtain approval for an alternate street name from the regional road naming group.

- * Final street right-of-way widths and locations will be established and dedicated consistent with the approved PEPI design.

- * The three existing reserve strips adjacent to the subject property shall be removed.

Other subjects

- * To ensure compliance with EC 9.6505, an Engineering and Construction agreement is required for the private construction of public improvements, which must be submitted when the construction plans are submitted for review and approval. The configuration and size of the public improvements shall further be subject to approval by the City Engineer upon review of the design and supporting analysis prepared by the applicant's engineer. If the improvements are not permitted prior to plat approval, a bond for the construction of public improvements shall be provided prior to final plat.

- * The boundaries of the special flood hazard area (SFHA) need to be clearly delineated and a specific base flood elevation (BFE) for each lot needs to be determined. A number of conditions of approval will be imposed during the subdivision process to ensure compliance with this standard.

- * The tentative subdivision application for this development shall reference the Conservation Easement. It will be recorded in conjunction with the final plat.

- * The final design of the stormwater treatment manhole and any on-site infiltration systems will be determined during the subsequent PEPI process and building permit review for compliance with the City's Stormwater Management Manual.
- * The applicant shall submit the following information on a copy of the final subdivision plat, prepared by a certified engineer or licensed surveyor: delineation of the SFHA boundaries with the corresponding FIRM numbers and date; determination of the BFE for each lot (or the most conservative for the entire development) with an explanation of the methodology.
- * The final subdivision plat shall include a note stating which Lots are within the SFHA and the BFE.
- * The applicant will specify how private utility lines (wastewater, water, electric, gas and communications) will be extended through the conservation zone to serve Lot 13. The use of trenchless techniques is recommended.
- * Prior to final PUD approval, the property boundaries for the development may need to be redesigned so that Lot 2 meets the minimum 30 foot continuous and usable frontage standard of LC 15.120.
- * A Lane County Facility Permit is required for any new or relocated driveway connections to Gilham Road, and any utility connections or other required work within the right-of-way of Gilham Road.

Attachments

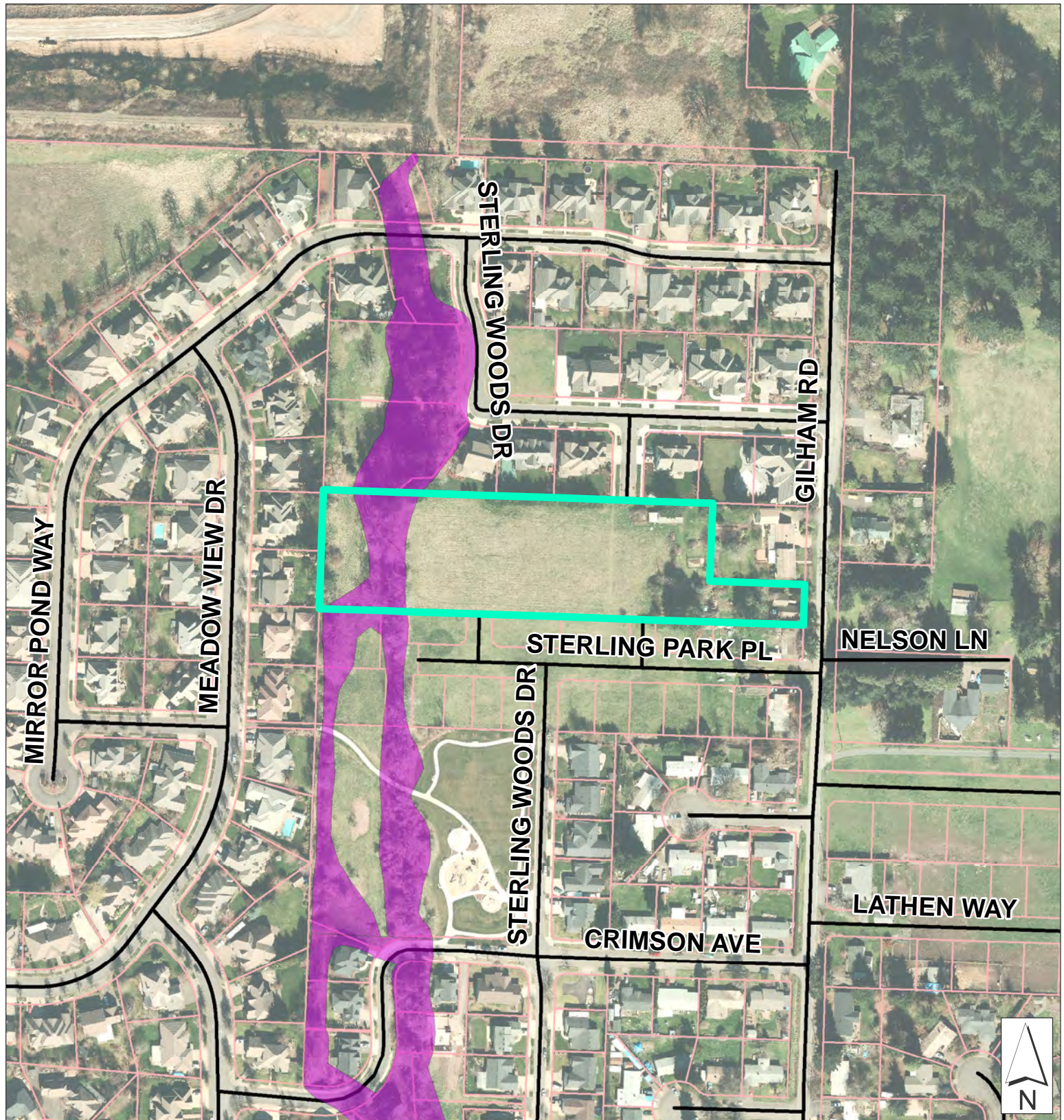
Attachments are noted below and included for ease of reference, however all record materials are available for review at the Planning Division. Copies can be also provided upon request, at cost. The Hearings Official will be provided a full set of record materials for review, and the full record will be made available at the public hearing.

Attachment A:	Vicinity map showing City Goal 5 riparian boundaries
Attachment B:	Terra Science report map
Attachment C:	City Goal 5 plan map
Attachment D:	2004 aerial photo of site

For More Information:

Please contact Rob Lilley, Associate Planner, Eugene Planning Division, by phone at (541) 682-8404, or by e-mail at rob.d.lilley@ci.eugene.or.us .

Vicinity Map with 2013 Aerial Photo



Legend

- Subject Property
- Goal 5 Riparian, 20' setback
- Streets
- Taxlots

0 125 250 500 Ft

Caution:
This map is based on imprecise
source data, subject to change,
and for general reference only.

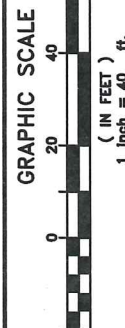


EXHIBIT 2

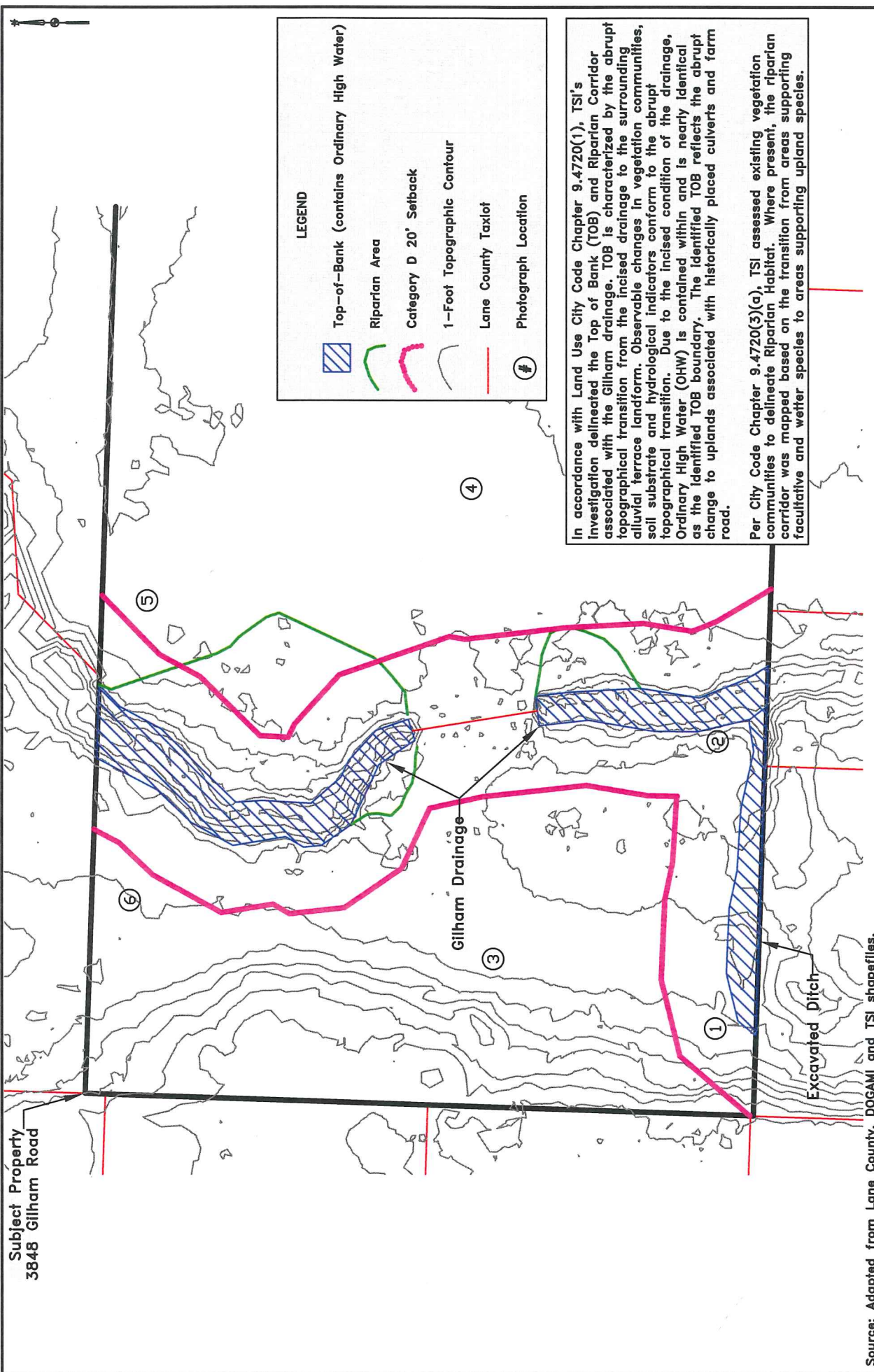
WATER RESOURCES ASSESSMENT

WATER RESOURCES OVERLAY ZONE
RESOURCES FOR 3848 GILHAM ROAD
City of Eugene, Lane County, Oregon

Terra Science, Inc.
Soil, Water, & Wetland Consultants



November 2015



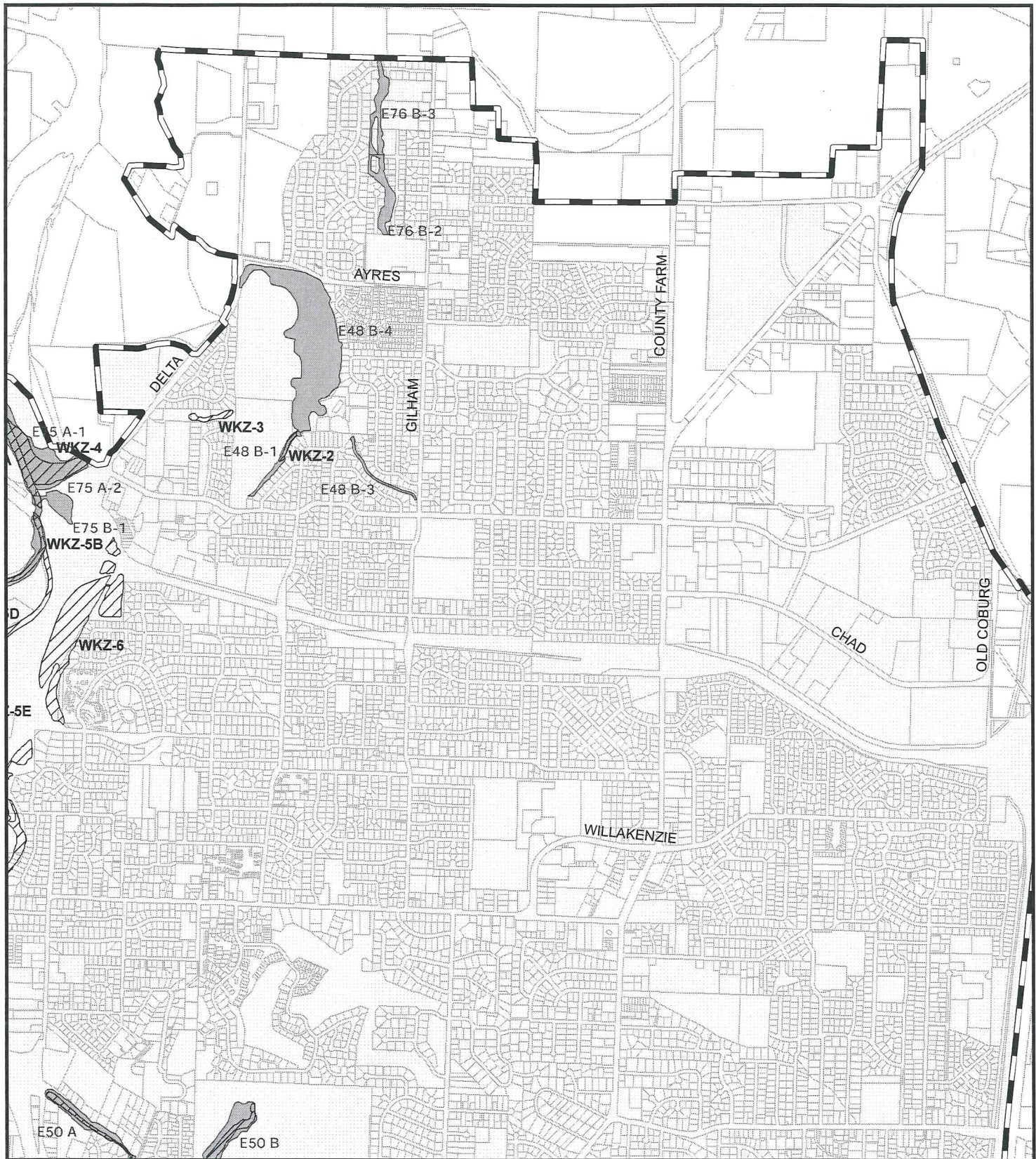
LEGEND

- Top-of-Bank (contains Ordinary High Water)
- Riparian Area
- Category D 20' Setback
- 1-Foot Topographic Contour
- Lane County Taxlot
- Photograph Location

In accordance with Land Use City Code Chapter 9.4720(1), TSI's investigation delineated the Top of Bank (TOB) and Riparian Corridor associated with the Gilham drainage. TOB is characterized by the abrupt topographical transition from the incised drainage to the surrounding alluvial terrace landform. Observable changes in vegetation communities, soil substrate and hydrological indicators conform to the abrupt topographical transition. Due to the incised condition of the drainage, Ordinary High Water (OHW) is contained within and is nearly identical as the identified TOB boundary. The identified TOB reflects the abrupt change to uplands associated with historically placed culverts and farm road.

Per City Code Chapter 9.4720(3)(a), TSI assessed existing vegetation communities to delineate Riparian Habitat. Where present, the riparian corridor was mapped based on the transition from areas supporting facultative and wetter species to areas supporting upland species.

Source: Adapted from Lane County, DOGAMI and TSI shapefiles.

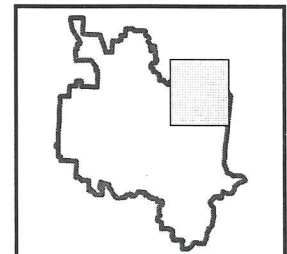
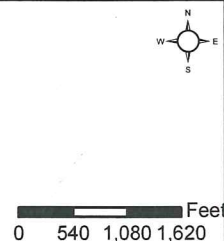


Goal 5 Water Resources Conservation Plan, Section IV, Map 15

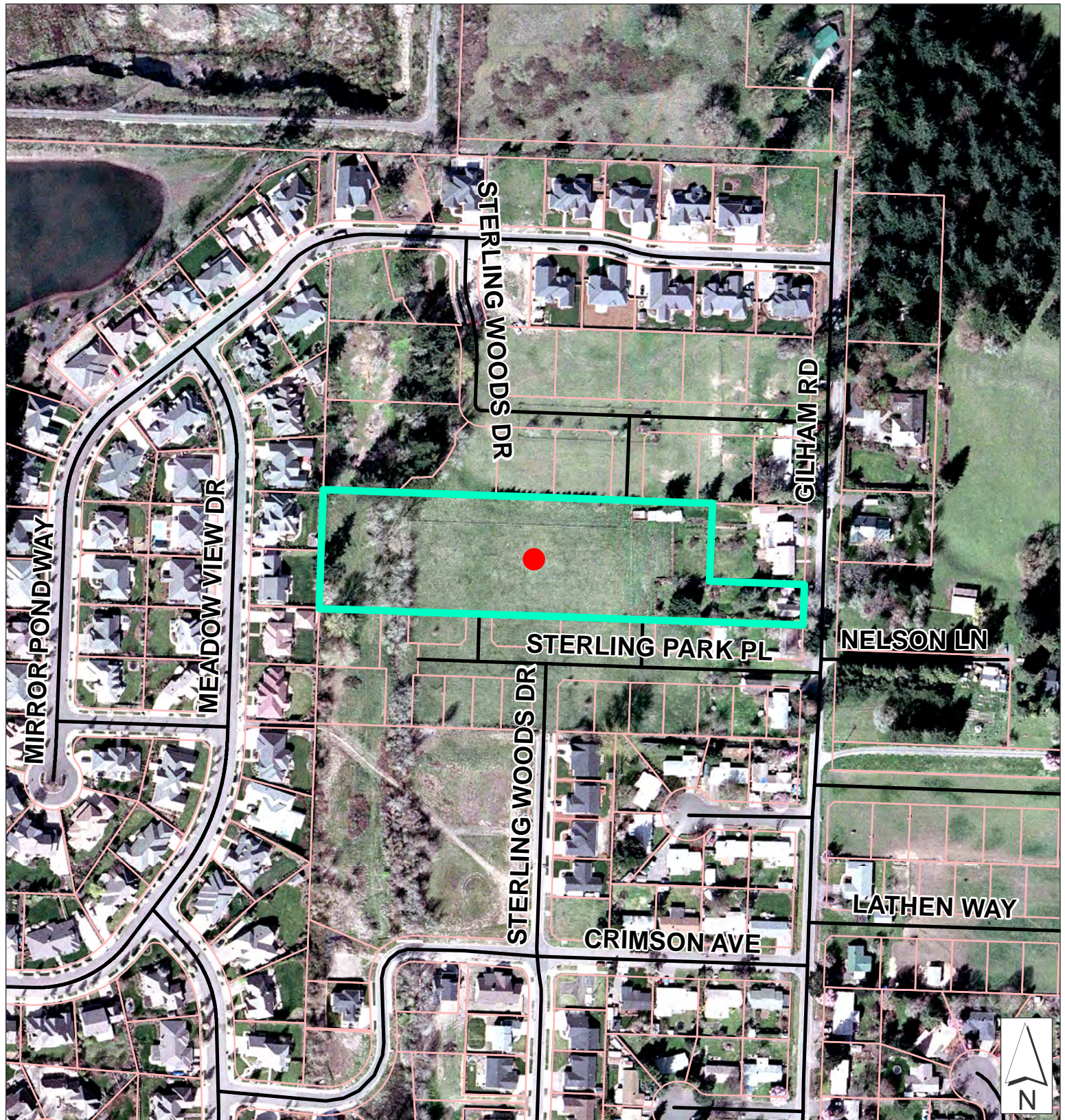
Eugene Goal 5 ESEE Conclusions

Protected Goal 5 Resources

- | | |
|------------------------------|---|
| Eugene Urban Growth Boundary | Wetland Designated for Protection |
| Eugene City Limits | Riparian Corridor Designated for Protection |
| Taxlots | Upland Wildlife Habitat Designated for Protection |



2004 Aerial Photo



Legend

- Subject Property
- Streets
- Taxlots

0 125 250 500 Ft

Caution:
This map is based on imprecise
source data, subject to change,
and for general reference only.

